

AMENDED IN SENATE AUGUST 25, 1998

AMENDED IN SENATE AUGUST 5, 1998

AMENDED IN SENATE JUNE 25, 1998

AMENDED IN ASSEMBLY JANUARY 28, 1998

AMENDED IN ASSEMBLY JANUARY 22, 1998

AMENDED IN ASSEMBLY JANUARY 6, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 668

**Introduced by Assembly Members Aroner and Shelley
(Principal coauthor: Assembly Member Villaraigosa)**

February 26, 1997

An act to add Section 14132.97 to the Welfare and Institutions Code, relating to human services, *making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 668, as amended, Aroner. In-home supportive services: personal care services funding.

Existing law provides for the In-Home Supportive Services (IHSS) program, under which, either through employment by the recipient, or by or through contract by the county, qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Counties are responsible for the administration of the IHSS program.

Existing law authorizes the provision of personal care services under the IHSS program and specifies that those personal care services provided to a recipient who is eligible for those same services under the Medi-Cal program shall receive those services under the Medi-Cal program.

This bill would, subject to the receipt of any necessary federal waivers and the execution of any necessary amendments to the state medicaid plan, require the provision of waiver personal care services, as defined, under the Medi-Cal program to persons meeting specified requirements.

The bill would appropriate \$250,000 from the General Fund to make changes to the case management, information, and payrolling system that are necessary for the implementation of the bill.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~ ²/₃. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of
- 2 the following:
- 3 (a) Under the federal Omnibus Budget Reconciliation
- 4 Act of 1981 (Public Law 97-35), states may apply for
- 5 waiver under Section 1915(c) of the federal Social
- 6 Security Act (42 U.S.C. Sec. 1396n(c)) to make
- 7 individuals eligible for Supplemental Security Income
- 8 (SSI) and medicaid benefits when medical, remedial, and
- 9 social services provided in the home can be shown to be
- 10 less costly than services provided in an institution.
- 11 (b) Whenever possible, medical, remedial, and social
- 12 services should be provided in the least restrictive setting
- 13 at the lowest cost to programs involved.
- 14 (c) To the extent possible, and consistent with client
- 15 preference, necessary medical and remedial services in
- 16 the home can be provided through personal care services
- 17 beyond those currently available under Section 14132.95
- 18 of the Welfare and Institutions Code.



(d) It is the intent of the Legislature that these services supplement and not supplant any services the client is entitled to receive under Section 14132.95 of the Welfare and Institutions Code.

SEC. 2. Section 14132.97 is added to the Welfare and Institutions Code, to read:

14132.97. (a) For purposes of this section, “waiver personal care services” means personal care services authorized by the department for persons who are eligible for either nursing or model nursing facility waiver services. Waiver personal care services shall be defined in these respective waivers, shall differ in scope from personal care services that may be authorized in Section 14132.95, and shall not replace any hours of services authorized or that may be authorized under Section 14132.95.

(b) An individual may receive waiver personal care services if all of the following conditions are met:

(1) The individual has been approved by the department to receive services in accordance with a waiver approved under Section 1915(c) of the federal Social Security Act (42 U.S.C. Sec. 1396n(c)) for persons who would otherwise require care in a nursing facility.

(2) The individual has doctor’s orders that specify that he or she requires waiver personal care services in order to remain in his or her own home.

(3) The individual chooses, either personally or through a substitute decisionmaker who is recognized under state law for purposes of giving consent for medical treatment, to receive waiver personal care services, as well as medically necessary skilled nursing services, in order to remain in his or her own home.

(4) The waiver personal care services and all other waiver services for the individual do not result in costs that exceed the fiscal limit established under the waiver.

(c) The department shall notify the administrator of the in-home supportive services program in the county of residence of any individual who meets all requirements of subdivision (b) and has been authorized by the

1 department to receive waiver personal care services. The
2 county of residence shall then do the following:

3 (1) Inform the department of the personal care
4 services that the individual is authorized to receive under
5 Section 14132.95 at the time he or she becomes eligible for
6 waiver personal care services.

7 (2) Determine the individual's eligibility for personal
8 care services under Section 14132.95 if he or she is not
9 currently authorized to receive those services and if he or
10 she has not been previously determined eligible for those
11 services.

12 ~~(3) Authorize the individual for the quantity and~~
13 ~~scope of waiver personal care services that have been~~
14 ~~approved by the department.~~

15 *(3) Implement the department's authorization for*
16 *waiver personal care services for the individual at the*
17 *quantity and scope authorized by the department.*

18 (d) (1) Waiver personal care services approved by
19 the department for individuals who meet the
20 requirements of subdivision (b) may be provided in
21 either of the following ways, or a combination of both:

22 (A) By a licensed and certified home health agency
23 participating in the Medi-Cal program.

24 (B) By one or more providers of personal care services
25 under Article 7 (commencing with Section 12300) of
26 Chapter 3 and subdivision (d) of Section 14132.95, when
27 the individual elects, in writing, to utilize these service
28 providers.

29 (2) The department shall approve waiver personal
30 care services for individuals who meet the requirements
31 of subdivision (b) only when the department finds that
32 the individual's receipt of waiver personal care services
33 is necessary in order to enable the individual to be
34 maintained safely in his or her own home and community.

35 *(3) When waiver personal care services are provided*
36 *by a licensed and certified home health agency, the home*
37 *health agency shall receive payment in the manner by*
38 *which it would receive payment for any other service*
39 *approved by the department.*

1 (4) When waiver personal care services are provided
2 by one or more providers of personal care services under
3 Article 7 (commencing with Section 12300) of Chapter 3
4 and subdivision (d) of Section 14132.95, the providers
5 shall receive payment on a schedule and in a manner by
6 which providers of personal care services receive
7 payment. The State Department of Social Services shall
8 commence making payments for waiver personal care
9 services when its payment system has been modified to
10 accommodate those payments. No county shall be
11 obligated to administer waiver personal care services
12 until the State Department of Social Services payment
13 system has been modified to accommodate those
14 payments. However, any county or public authority or
15 nonprofit consortium that administers the in-home
16 supportive services program and personal care services
17 program may pay providers for the delivery of waiver
18 personal care services if it chooses to do so. In such a case,
19 the county, public authority, or nonprofit consortium
20 shall be reimbursed by the department for the waiver
21 personal care services authorized by the department and
22 provided to an individual upon submittal of
23 documentation as required by the waiver, and in
24 accordance with the requirements of the department.

25 (e) Waiver personal care services shall not count as
26 alternative resources in a county's determination of the
27 amount of services an individual may receive under
28 Section 14132.95.

29 ~~(f) Providers of waiver personal care services shall~~
30 ~~receive payment on a schedule and in a manner by which~~
31 ~~providers of personal care option services receive~~
32 ~~payment.~~

33 ~~(g) Any administrative costs associated with~~

34 (f) Any administrative costs to the State Department
35 of Social Services, a county, or a public authority or
36 nonprofit consortium associated with implementing this
37 section shall be considered administrative costs under the
38 waiver and shall be reimbursed by the department.

39 (g) Two hundred fifty thousand dollars (\$250,000) is
40 appropriated from the General Fund to the State

1 *Department of Social Services for the 1998–99 fiscal year*
2 *for the purpose of making changes to the case*
3 *management, information, and payrolling system that*
4 *are necessary for the implementation of this section.*

5 (h) This section shall not be implemented until the
6 department has obtained federal approval of any
7 necessary amendments to the existing nursing facility and
8 model nursing facility waivers and the state plan under
9 Title 19 of the federal Social Security Act (42 U.S.C. Sec.
10 1396 et seq.). Any amendments to the existing nursing
11 facility and model nursing facility waivers and the state
12 plan which are deemed to be necessary by the director
13 shall be submitted to the federal Health Care Financing
14 Administration by April 1, 1999.

15 (i) The department shall implement this section only
16 to the extent that its implementation results in fiscal
17 neutrality, as required under the terms of the waivers.

18 *SEC. 3. This act is an urgency statute necessary for the*
19 *immediate preservation of the public peace, health, or*
20 *safety within the meaning of Article IV of the*
21 *Constitution and shall go into immediate effect. The facts*
22 *constituting the necessity are:*

23 *In order to timely implement the funding and changes*
24 *needed to effectuate this act in the 1998–99 fiscal year, it*
25 *is necessary that this act take effect immediately.*

